

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

NO. 5:20-cv-00147-C

APPROXIMATELY TWENTY-NINE (29)
FIREARMS AND FIREARM
ACCESSORIES,

GOVERNMENT’S RESPONSE TO VERIFIED CLAIMS

The United States of America (“the United States”) responds to the verified claims of Marcus Braziel and Vanessa Braziel (“the Claimants”) pursuant to the Court’s August 10, 2020 Order. *See* Dkt. 7. Since the Court’s Order, the parties have continued to discuss a potential extra-judicial resolution of this action, including disposition of the defendant property.

Background

1. On July 2, 2020, the United States filed the forfeiture complaint against the defendant property, on the basis that they were intended to be used in a violation of 18 U.S.C. § 922(a)(1)(A). *See* Dkt. 1.
2. On July 31, 2020, the Claimants filed separate verified claims, asserting interests in the defendant property. *See* Dkt. 5-6. Each claimant asserts an ownership interest in all seized firearms, stating that the firearms were held at the Claimants’ home as part of a “lawful collection of firearms.” *See* Dkt. 5-6 at 1.

3. The Claimants subsequently filed answers to the forfeiture complaint in August 2020. *See* Dkt. 7-8. Each claimant denies that the firearms were intended to be used in violation of 18 U.S.C. § 922(a)(1)(A) and further asserting that Claimants were not in the business of importing, manufacturing, or dealing in firearms, or, in the course of such business, to ship, transport, or receive any firearm in interstate commerce. *Id.*

4. The United States stipulates that the Claimants' verified claims and Answers to the Complaints meet the requirements under Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions and Rule 12 of the Federal Rules of Civil Procedure. Claimants therefore have standing to contest the forfeiture action.

5. No other verified claims or answers to the Complaint have been filed, and the time to do so has passed.

6. The United States reiterates the allegations in the Complaint for Forfeiture, and asserts that the seized firearms are subject to forfeiture. Under 18 U.S.C. § 983(c), "the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture."

7. Consequently, the United States is prepared to move forward to civil fact discovery in this matter, in order to meet its burden of demonstrating that the seized firearms are subject to forfeiture.

8. Nevertheless, while the United States is prepared to move forward to civil discovery, it also believes that the matter may be resolved extra-judicially, without engaging in civil discovery. Since the filing of the Claimants' Answers, the United States

and the Claimants have engaged in negotiations to resolve all investigations and potential federal actions in this matter. The parties are confident that the outstanding disputes underlying this and any other potential action can be resolved expediently, and that the terms of any agreement will fully resolve this matter.

9. Therefore, the United States would request that any scheduling order for this matter provide sufficient time for the parties to reach such an agreement and resolve this matter as to the disposition of the property.

10. Should a resolution be reached at any time, the United States immediately will notify the Court and move to dismiss this civil action.

Respectfully Submitted,

ERIN NEALY COX
UNITED STATES ATTORNEY

/s/ Gregory S. Martin

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on August 31, 2020, I filed this document with the Clerk of the Court for the U.S. District Court, Northern District of Texas, via the ECF system.

/s/ Gregory S. Martin

GREGORY S. MARTIN